

RECEIVED BY *J. H. Smith* *2/12/82*

February 9, 1982

MEMORANDUM

TO : HA - Mr. Levitsky  
 THRU: HA - Mr. Arthur *JA*  
 FROM: HA - <sup>in</sup>Judith Hartgen

For the past year, Afghans have been arriving in New York from India and Pakistan with fraudulent passports and counterfeit U.S. visas. In some instances they have obtained authentic third-country visas and entered the U.S. in Transit Without Visa (TRWOV) status, having destroyed before landing their third-country visas. These techniques have recently begun to appear on the West Coast.

A new wrinkle which appeared with the recent West Coast arrivals was their claim that they had been UNHCR mandated as refugees in India.

We cabled Embassy New Delhi concerning these individuals and received information back that widely varied: one had received UNHCR mandate, been interviewed by the Embassy for consideration as a refugee for the U.S. program, had qualified, was interviewed by INS and approved, but was unable to travel to the U.S. because he was medically (mentally) unfit. Others ranged from never having applied for the refugee program through having completed various steps of the processing, to having been rejected by the U.S. refugee program because they did not meet any of the U.S. special interest categories. In New York there is one who is apparently not even an Afghan.

RP, L, HA, S/R and the Afghan and India desks were all greatly concerned over this situation and worked hard to produce the attached draft language which has been used (with appropriate changes) for each of these applicants.

In summary, for those who were rejected for the U.S. refugee program, or who never completed processing, we are recommending they be returned to India to continue refugee processing there (either for the U.S. program or for some other country's program). We are well aware that India is not likely to take them back, so we then recommend that, in the event they are unable to return to India, they not be

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granted asylum. We specifically say that it is our opinion the applicant has a well-founded fear of persecution in Afghanistan, thus ruling out the possibility of deportation to that country. As a result, INS will allow them to remain in the U.S. under Sec. 243h of the INA, which will, in effect, grant them what they want--sanctuary, but will not reward their circumvention of our laws by allowing them to adjust to permanent residence in the future. They are thereby restricted from obtaining the same "rewards" as Afghans who process legally into this country as refugees. For the lone applicant who had been approved in New Delhi, we recommend INS abide by the previous INS decision and grant him refugee status.

Attachment:

As noted.

CC: PPS:mas